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# **Session 6:**

## **Monitor's Access To And Disclosure Of Sensitive Information**

RTO West Market Monitoring Workshop  
Portland, Oregon  
June 22, 2000

# RTO West Market Monitoring Workshop

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Session 1: Market Monitoring: Why

Session 2: Who Will Monitor; the RTO's Role

Session 3: Organization and Governance of Monitoring

Session 4: Monitoring Tasks and Process

Session 5: Authority to Address Problems

➔ **Session 6: Access to, Disclosure of Sensitive Information**

Session 7: Market Power Issues

## Scope and Focus of Session 6

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- RTO monitor's authority to obtain information participants consider commercially sensitive, confidential and/or proprietary (cost data, contract data, etc.)
- RTO public disclosure of sensitive data and information:
  - Bid data
  - Information regarding investigations, sanctions, etc.

## **Order 2000 on the Information Needed For Market Monitoring**

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“We are not requiring a [market monitoring] plan that necessarily involves the collection of data the RTO would not collect in its ordinary course of business. We believe that the information collected through the RTO market monitoring plan will reflect data that the RTO will collect or have access to in the normal course of business (e.g., bid data, operational information).”

# ISO Authority to Request Confidential Information From Participants

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## PJM:

- Plan says it will primarily rely upon market and publicly available data
- Can request information from participants (voluntary); can initiate regulatory proceedings in an attempt to compel
- Attempted to compel provision of bilateral contract data through FERC filing; is now negotiating with the participant

## CA-ISO:

- Can request information from participants; if they refuse, can impose approved sanctions (but none are approved)
- [Received full set of generator cost data before divestiture]

# ISO Authority to Request Confidential Information From Participants (cont'd)

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## ISO-NE:

- FERC required ISO-NE to compare bids to costs
- ISO-NE has authority to require generators to provide cost data; has used the authority in investigations of possible market power; sanctioned one entity that did not comply

## NYISO:

- Has list of data NYISO can request participants to provide
- Non-compliance can lead to dispute resolution, arbitration, regulatory actions to compel
- Participants are required to retain certain data for two years

# Do Monitors Need Detailed Cost Information?

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- Bidding strategies in competitive hours can be used as a baseline for comparison in lieu of detailed cost information
- Monitors should be able to estimate fossil production costs reasonably accurately (within 20%?) based on technology, public fuel price information. Other cost components (such as startup costs) can be harder to determine.
- Detailed cost information may be needed to determine payments under local market power mitigation rules (bid caps, “constrained on” payments, etc.). Participants will likely provide it voluntarily under such circumstances.

## **Do Monitors Need Access to Bilateral Contract Information?**

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- Do RTOs need authority to obtain confidential information about bilateral transactions?
  - To fulfill a requirement to monitor, report on bilateral markets? (Claimed by PJM)
  - To investigate specific behavior involving bilateral contracts?
- Participants can be expected to voluntarily provide such information, subject to confidentiality, to explain their actions to a market monitor that has raised specific concerns about conduct that could lead to corrective action.



## Public Disclosure of Bid Data

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- FERC ordered PJM and NYISO to make public, with a six month lag, detailed bid data (prices, quantities, no bidder identities, but an ability to track bidders over time) (*ER98-3527*)
  - Purpose: allow interested parties to monitor market
  - FERC concluded commercial sensitivity of data, and potential for it to facilitate collusion, decrease with time
- CA-ISO is considering such a policy
- Order 2000 does not require release of bid data

# Disclosure of Bid Data: Pluses and Minuses

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- Potential advantages:
  - Permits additional parties to analyze the market, deepen their understanding of it, determine whether market power is being exercised, etc.
- Potential disadvantages:
  - Detailed bid data can potentially facilitate collusion
  - Bidding strategies are considered by some participants trade secrets, and bid data reflects sensitive cost data; disclosure may cause competitive harm
  - Disclosure could lead some participants to prefer bilateral markets to avoid it

# Disclosure of Information Regarding Investigations and Sanctions

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# Access to and Disclosure of Information: Discussion

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